GOVERNMENT OF INDIA
COMMERCE AND INDUSTRY
LOK SABHA

UNSTARRED QUESTION NO:3489
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Impact of MES to China
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Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

(a) whether the Government has assessed the implications of the possibility of China being granted "Market Economy Status (MES)";
(b) if so, the details thereof indicating the industries which are likely to be most affected as a result thereof;
(c) whether the Government proposes to take steps to protect the affecting local industries;
(d) if so, the details thereof including the restrictive effects of MES status on imposition of anti-dumping measures; and
(e) if not, the reasons therefor?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY (INDEPENDENT CHARGE)
(SMT. NIRMALA SITHARAMAN)

(a) to (e): Apart from ongoing internal assessments, there are studies available which basically postulate on the possible implications of China being granted Market Economy Status(MES).

The WTO did not distinguish between non-market economy and market economies before 1955, when the second paragraph of the addendum to article VI of the General Agreement on Tariffs and Trade (GATT) was introduced. The addendum acknowledges that non-market economy policies can introduce price distortions. These distortions can render price comparability between the normal value, determined as the domestic price of a certain good in the export country, and the export price of that same good applied by the exporters of that same country, impossible. The accurate comparability of these two values is fundamental for calculating the dumping margin and determining applicable dumping duties. The addendum therefore allows importing countries to take into account alternative methodologies if comparing of domestic prices of the exporting country is inappropriate.

The addendum''s alternative approach can be used by any importing country that can prove the exporting country complies with the definition of a Non-Market Economy under the addendum.
The main implication of NME status in anti-dumping proceedings is the possibility to use other methodologies to determine the normal value of the good, instead of using domestic prices to compute the dumping margin. In general, NME methodologies to calculate normal value have proven to lead to higher anti-dumping duties. In view of these higher duties, and the fact that China faces the highest number of anti-dumping investigations, obtaining earlier recognition of Market Economy Status (MES) has been one of the country''s major foreign policy objectives since 2003.

India also has a large number of anti-dumping investigations against China. Out of the 131 measures in force, 87 measures are against China. In these investigations, in several cases, China has been considered a Non Market Economy (NME) on account of significant direct or indirect state control in the enterprise or in major operation, raw material and utility supplies, provision of land and transfer of erstwhile State controlled old plants and production units at nominal prices thereby affecting the cost and prices of the goods and services. Our investigating authorities treat certain Chinese industries, on a case to case basis, as operating under market conditions for the purpose of arriving at the normal values. If China is treated as having a Market Economy Status then the cost and prices of the Chinese Producers would have to be accepted across board, for determination of the normal values and dumping margins.

Under Section 15 of the Chinese WTO Accession Protocol, China can be treated as a non-market economy (NME) in anti-dumping proceedings if Chinese firms cannot prove that they operate under market economy conditions.

China has argued that, according to Section 15(d) of the WTO Accession Protocol, the Section 15 provision allowing for NME methodology expires after 11 December 2016, resulting in a legal obligation to grant MES to China after that date. This interpretation of the section remains highly controversial.

Several countries have granted earlier recognition of MES to China, mainly as a condition for negotiating free trade agreements (FTA) with China.

In addition to India, the main countries which still consider China an NME are the US, Canada, Japan and the European Union (EU).

Government of India has been taking necessary action, as deemed fit, to address such issues concerning our industry and to provide support to the domestic industry in the form of legal assistance, appropriate intervention in the concerned international forum and other supporting activities.
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